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10 Resources

11 **BEFORE THE**
12 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

13 **HEARING IN THE MATTER OF CALIFORNIA**
14 **DEPARTMENT OF WATER RESOURCES**
15 **AND UNITED STATES BUREAU OF**
16 **RECLAMATION REQUEST FOR A CHANGE**
17 **IN POINT OF DIVERSION FOR CALIFORNIA**
18 **WATER FIX**

19 **DWR'S CONSOLIDATED RESPONSE**
20 **TO OPPOSITION TO ITS MOTION**
21 **FOR RECONSIDERATION**

22 The CA Department of Water Resources (DWR) submits this consolidated response
23 to opposition arguments to its March 26, 2018 Motion for Reconsideration of Rulings on
24 Hearing Scope.¹

25 DWR asserts that the oppositions to its motion mischaracterize its request and DWR
26 disagrees with the straw man arguments contained in the papers filed by opposing parties.
27 DWR does not argue that the Hearing Officers are constrained in their consideration to the
28 requirements of D-1641 or other current regulatory requirements when assessing the
California WaterFix. DWR simply seeks to avoid this hearing re-litigating the efficacy of D-
1641, the 2008/2009 Biological Opinions, the existing Consistency Determinations or
Incidental Take Permits, and other regulatory requirements that are applicable to the
existing State Water Project.

These existing regulatory requirements do not constrain the Hearing Officers but

¹ Natural Resources Defense Council et al.'s Opposition to DWR's Motion for Reconsideration of the Scope of Phase 2, and joinders by Deirdre Des Jardins, CSPA et al., Restore the Delta, and City of Antioch's Opposition to DWR Motion for Reconsideration re: Hearing Officers Ruling on Scope of the Part 2 Hearing.

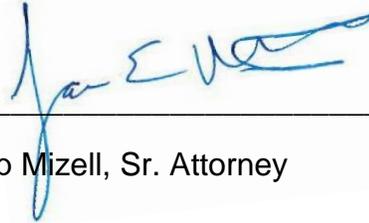
1 they do provide the baseline against which the “change” requested in the Petition, the
2 California WaterFix, should be measured. Re-examination of the baseline itself should not
3 be the focus of this hearing.

4 Most arguments in opposition to this request for reconsideration based on this false
5 premise are therefore inapposite to the request in DWR’s motion.

6 Finally, contrary to the assertion by NRDC that DWR should have challenged the
7 relevance of testimony submitted by NRDC, the Hearing Officers have asked that DWR not
8 file objections to testimony prior to the party beginning its case-in-chief. Thus, NRDC’s
9 claims of procedural defect regarding objections to scope of Dr. Rosenfield are incorrect.
10 DWR was under no obligation to have objected to this testimony or NRDC’s filings prior to
11 seeking this reconsideration.

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13 Dated: April 4, 2018

CALIFORNIA DEPARTMENT OF WATER RESOURCES

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15 A handwritten signature in blue ink, appearing to read "Tripp Mizell", is written over a horizontal line. The signature is stylized and cursive.

16 Tripp Mizell, Sr. Attorney
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